

CANCELLATION OR WITHDRAWAL OF LISTINGS

The relative rights of an owner or a broker to withdraw or cancel a listing agreement are determined by contract law and court decisions, and the facts in each case bear heavily on the result. As used in this guideline, the term “withdrawal” of a listing means that the contract remains in full force and effect, but the property is no longer marketed or offered for sale by the broker. The term “cancellation” of a listing shall mean that the contract is fully terminated, either with or without the broker’s consent and with or without “good cause” on the part of the seller.

As a general proposition, an owner may, at any time, withdraw from the broker the authority to sell the property (i.e. stop offering it for sale). Some listing agreements specify a penalty for early, unilateral withdrawal of the property from sale by the owner. Even if no penalty is specified in the contract, the courts might award damages to a broker if the seller has acted unreasonably and the broker has acted in good faith.

When an owner cancels a listing agreement (as opposed to withdrawing the property from sale), the seller is essentially “breaking” the contract, even though it may be upheld in court as justifiable. Such a case may occur where the broker had already breached the contract in some manner.

If an agreement cannot be reached between the parties, it would be up to the courts to determine what “damages” (if any) should be awarded to the broker for early, unilateral cancellation of the listing agreement by an owner.

The Idaho Real Estate Commission usually cannot become involved in listing cancellation disputes. In some cases, the owner may legitimately want to cancel a listing agreement because the broker is not making a good effort to market the property. Other times, the broker may not want to release the owner from the listing agreement because the broker suspects that a buyer has been found (very possibly due to the broker’s efforts) and now the seller simply does not want to pay for the services which the seller has received.

The Commission does not have any legal authority to determine whether or not a seller’s unilateral cancellation is appropriate.